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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,379	02/19/2004	Roger Warren	486.0047USU	3589

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EXAMINER

HALE, GLORIA M

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,379

Applicant(s)

WARREN ET AL.

Examiner

Gloria Hale

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-12-07 Amendment/RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 and 8-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1 it is not clear as to what the "intermediate" layer is the actual adhering layer, a fusing layer or another layer that has an adhesive applied thereto. It is not clear if it is the adhesive layer described in the original specification since it was not described as an intermediate layer. Claim 1 only states that the intended use of the intermediate layer is for adhering or fusing. However no specific adhesive structure or fusing element has been claimed. It is not clear if it is an adhesive film, a fabric with an adhesive applied thereon such as a fusible interfacing fabric; or if it is an intermediate fabric layer with a liquid, gel or spray adhesive applied thereon during the manufacturing of the bra. It is also not clear as to what the intermediate layer elastic properties are. If it is an adhesive layer it is not clear how the adhesive layer is elastic or as to what its elastic properties encompass. It is not clear if it is and elastic adhesive film, a non-woven fusible adhesive material etc. It is not clear if it is an elastic fabric layer that had an adhesive layer, gel, spray applied thereon. It is also not clear as to how the intermediate layer will stretch after the bra is formed if the bra is molded with a heat process mold. In claim 9, line 5 it is not clear as to what the adhesive or fusing

layer encompasses. It is not clear if it is a film layer, a fabric with an adhesive sprayed or applied thereto or if it is just a liquid/spray adhesive without a fabric layer or if it is like an adhesive non-woven fusible material layer. IT is not clear as to how the adhesive has elastic properties to permit stretching. It is not clear as to how the adhesive layer will stretch after the layers are fused in heat molding. It is not clear as to how or in what process the bra is molded. If the undergarment of claim 1 is a bra it should be claimed as such since the term undergarment would cover any undergarment including a brief, panty or girdle of which such is more than what applicant's invention is. The claims should be limited to applicant's invention which is a bra as disclosed in the specification. Claim 14 is also not clear in regard to the "adhesive layer". It is not clear if it is a fabric fusible adhesive layer or if it includes an adhesive spray, liquid or gel applied to the other layers or as to how the adhesive or fusing layer is elastic and as to what properties are included. It is not clear as to how the molding process is performed. Is it a heat molding process? Claim 19 is not clear for the same reasons as claim 1 in regard to the intermediate layer, the elastic properties and adhesive materials therein. Claim 25 is not clear in regard to the thermoadhesive. It is not clear as to what the thermoadhesive encompasses. It is not clear if it is a liquid, gel, film, fusible non-woven or some other adhesive material. IT is not clear as to how the material has elastic properties or as to what they encompasses. IT is not clear as to how the pattern in claim 26 is formed. Is it by a cut out film pattern shape, sprayed on or a painted on adhesive etc. It is not clear as to how the adhesive itself provides support as in claim 27. Is it in combination with other layers or an adhesive film or fusible material. In

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regard to claim 28 it is not clear as to how adhesive layers are transparent other than if it is a film or if it is a clear adhesive such as a liquid or gel. Is it a non-woven fusible material that is transparent? It is not clear as to how the pattern of claim 29 is formed.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 and 8-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims are not clear for the same reasons as discussed above. The original specification does not clearly define the adhesive layer on pages 6-8. The specification is unclear and incomplete in regard to the type of adhesive material used. The specification is not clear in regard to the molding process used. The specification is not clear in regard to how the materials remain elastic after the molding process especially if it is a heat molding process. It is not clear as to what the elastic properties of the adhesive layer encompass or as to how the adhesive is elastic. It is not clear as to what applicant is actually claiming in regard to the adhesive layer.

A prior art rejection cannot be made until the adhesive layer with the elastic properties is clearly defined. Also no new matter can be added to the specification. The drawings also do not clearly show the adhesive layer as being in a

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pattern or if it is an additional layer or if it is layer itself or applied in some other way such as by sprayed on applied in some other fashion.

Response to Arguments

Applicant's arguments with respect to claims 1-6 and 8-24 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984.

The examiner can normally be reached on Tues.-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gloria Hale
Primary Examiner
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